761551N25A - SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: October 13, 2005

OFFICE CORRESPONDENCE FILE:

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: STEPHEN B. JOHNSON, CAPTAIN
MAJOR CRIMES BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING, DECEMBER 17, 2003, REVIEW #SH2105975-FO2136180**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on December 17, 2003.

The Committee met on October 13, 2005, and consisted of Commanders Kenneth Brazile (Commander of the Department), Eric B. Smith (L&TD) and Robert Binkley (FOR III). The Committee determined that the use of force by Deputy Bobby Lyons #[redacted]was within Department policy.

Please advise the deputies of this finding.

JGJ:MAH:mh

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: December 17, 2003	Bureau/Station/Facility: Major Crimes Bureau	Admin. Invest.? ☐ Hit? ☒

Incident Information

URN: 403-01324-3499-057	Date: December 17, 2003 Time: 1535 hours
City or Station: West Covina	Nature of Incident: Personnel from Major Crimes Bureau were conducting a rolling surveillance of a murder suspect. At the point they attempted to effect the arrest of the suspect, the driver of the suspects vehicle attempted to run over one of the deputies in his attempt to escape. One deputy fired one shot at the vehicle as it approached him. The vehicle was pursued a distance but was lost in traffic. The driver was not captured and it was unknown if he was shot. The driver was captured approximately two weeks later and it was learned he sustained a single gun shot to the leg.
Location: [redacted] Glenview Avenue, West Covina	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, **Street** (circled), Other: ______

Lighting (*circle only one*): Darkness, Daylight, Other, **Street Lights** (circled)

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: 3-4 feet

Incident Type (*circle one or more*): Accidental, Armed Person, **Fleeing Suspect** (circled), Foot Pursuit, Gun Take Away, **Moving Vehicle** (circled), Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, **Other** (circled), Search Warrant, Two Person Unit

Prior Activity (*circle only one*): **Detective** (circled), Inmate Transport, Other, Routine Patrol

Total # of Shots Fired by Deputy: 1

Total # of Shots Fired by Suspect: 0

Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Gallagher	Kathy		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
[redacted]	[redacted]	[redacted]		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	Street Address	City	Zip Code	Work Ph	Home Ph	First Name	M.I.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	Del Mese	Larry		**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Employee #	Last Name	First Name	M.I.
	None		

Employee #	Last Name	First Name	M.I.
	None		

PSTD Use Only
SH # 2105975

Officer Involved Shooting

URN: 403-01324-3499-057

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
December 17, 2003	1535 hours		

Employee #	Last Name	First Name	M.I
[redacted]	Morris	William	
[redacted]	Reyes	Henry	
[redacted]	Lee	Stacy	

Shooting/Force Information

Method

Code	Method	Code	Method
(AW)	Arwen	(OV)	Other Weapon: Vehicle
(BC)	Baton:(Control)	(OB)	Other Weapon: Blunt Object
(BI)	Baton:(Impact)	(OO)	Other Weapon: Other
(BF)	Bodily Fluids	(PK)	Personal Weapon: Feet/Leg: (Kick)
(CN)	Canine	(PS)	Personal Weapon: Feet/Leg: (Sweep)
(CR)	Carotid Restraint	(PH)	Personal Weapon (Hand/Arm)
(CH)	Choke Hold	(PP)	Personal Weapon (Push)
(CT)	Control Holds:(Control Techniques)	(PO)	Personal Weapon (Other)
(TT)	Control Holds:(Team Takedown)	(RS)	Resistance
(TD)	Control Holds:(Takedown)	(CN)	Restraint Device (Capture Net)
(CE)	Chemical	(RH)	Restraint Device (Handcuffs)
(OC)	Chemical Agents (OC Spray)	(HB)	Restraint Device:Hobble (Legs Only)
(TG)	Chemical Agents (Tear Gas)	(TP)	Restraint Device:Hobble (TARP)
(EX)	Explosives	(RE)	Restraint Device: REACT Belt
(FH)	Firearm (Handgun)	(SP)	Sap
(FR)	Firearm (Rifle)	(SH)	Shield
(FS)	Firearm (Shotgun)	(SG)	37mm Stinger
(FO)	Firearm (Other)	(SB)	Sting Ball
(FB)	Flashbang	(ST)	Stun Bag
(FL)	Flashlight	(TR)	Taser
(OE)	Other Weapon: Edged	(UC)	Uncooperative

Type of Injury

Code	Type of Injury
(AB)	Abrasion
(BR)	Bruise
(BU)	Burn
(CP)	Complaint of Pain
(CO)	Concussion
(DH)	Death
(DI)	Dislocation
(DB)	Dog Bite
(FR)	Fractures
(GS)	Gunshot
(HB)	Human Bite
(LC)	Lacerations
(ND)	Nerve Damage
(OD)	Organ Damage
(PA)	Paralysis
(PW)	Puncture Wound
(SD)	Soft Tissue Damage
(ST)	Sprain/Twists
(UN)	Unconscious
(RM)	Refused Med Treatment
(NN)	NONE

Body Part Injured

Code	Body Part
(AD)	Abdomen
(AK)	Ankle
(AR)	Arm
(BK)	Back
(BT)	Buttocks
(CH)	Chest
(EL)	Elbow
(FA)	Face
(FE)	Feet
(FI)	Fingers
(GE)	Genitals
(GR)	Groin
(HD)	Hand
(HE)	Head
(HI)	Hip
(IN)	Internal
(KN)	Knees
(LE)	Leg
(NK)	Neck
(SH)	Shoulder
(WR)	Wrist

Brand

Code	Brand	Code	Brand	Code	Brand
(AK)	AK-47	(IV)	Iver Johnson	(RI)	RGI
(BN)	Benelli	(JE)	Jennings	(RO)	Rossi
(BR)	Beretta	(LO)	Lorcin	(SW)	Smith & Wesson
(BW)	Browning	(LU)	Luger	(SR)	Sturm Ruger
(CH)	Charter Arms	(MA)	Marlin	(ST)	Sterling
(CO)	Colt	(MO)	Mossberg	(TA)	Taurus
(DA)	Davis Industries	(NC)	NCI aka SKS	(WE)	Weatherby
(GL)	Glock	(NA)	North American	(WN)	Winchester
(HA)	Harrington & Richardson	(NO)	Norinco	(US)	US Government
(HI)	Hi Standard	(RA)	Raven	(YY)	Handmade (Inmate)
(HK)	H & K	(RM)	Remington	(XX)	Homemade (Non-Inmate)
(IT)	Ithica	(RG)	RG	(ZZ)	Other Brand

Caliber

Code	Caliber	Code	Caliber	Code	Caliber
(9)	9 mm	(24)	.243 caliber	(41)	.410 guage
(10)	10 mm	(25)	.25 caliber	(44)	.44 caliber
(12)	12 guage	(30)	.308 caliber	(45)	.45 caliber
(20)	20 guage	(35)	.357 caliber	(50)	50 mm
(21)	.22-250	(36)	30-60 caliber	(SL)	Slug
(22)	.22 caliber	(38)	.38 caliber	(WW)	Other caliber
(23)	.223 caliber	(40)	.40 caliber		

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	OV					NN	
E#1	S#1	FH	BR	9	Y	Y	NN	

Officer Involved Shooting
Involved Employee Information

URN: 403-01324-3499-057

Involved Employee

E 1

Employee # [redacted]	Last Name: Lyons	First Name: Bobby	M.I.
Sex: M Race: Black	Rank: Deputy Sheriff	Unit Assignment: Major Crimes Bureau	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): **Regular** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting: 6 hours	Duty Time (hrs): [redacted]	Clothing (*circle only one*): **Plain Clothes no Vest** / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age: [redacted]	Height: 5'10"	Weight: 210	
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name: [redacted]	First Name: [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name: [redacted]	First Name: [redacted]	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age:	Height:	Weight:	
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age:	Height:	Weight:	
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 403-01324-3499-057

Suspect Information

S 1

Last Name: Berry		First Name: Shawn	M.I.
AKA Last Name		First Name	M.I.
Sex: M Race: White	Street Address: [redacted]	City [redacted]	State & Zip [redacted]
Work Phone [redacted]	Home Phone [redacted]	Social Security [redacted]	Driver's License [redacted]
Age: 32 D.O.B. 04-11-1971	Height: 5'9" Weight: 187	FBI # [redacted]	CII # [redacted]
Booking #	Primary Charge: 187 PC	Secondary Charge: 245(c) PC	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History [redacted]
Vehicle Make: Toyota		Model: Camry	Year: 2003

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

DEPUTY INVOLVED SHOOTING - ON DUTY
DECEMBER 17, 2003 @ 3:35 PM
MAJOR CRIMES BUREAU
CITY OF WEST COVINA
003-01324-3499-057

On Wednesday, December 17, 2003, Sergeant Brian Morris, Sergeant Henry Reyes, and Lieutenant Stacy Lee, of the Internal Affairs Bureau Force & Shooting Response Team went to the intersection of Glenview Road and Merced Avenue, in the city of West Covina, regarding an on-duty deputy involved shooting. Ilana Rosenzweig, of the Office of Independent Review also responded.

It was learned that personnel from Major Crimes Bureau were in the area assisting Homicide Bureau with a surveillance of a murder suspect, with the intention of arresting him. The murder suspect was a passenger in a vehicle. When the suspects saw the deputies, the driver of the vehicle attempted to flee. In doing so, the driver drove at Deputy Robert Lyons, who fired a single shot at the driver of a vehicle as it drove toward him. After the shooting, the suspect vehicle evaded deputies and a vehicle pursuit ensued. During the pursuit, the vehicle stopped and the murder suspect exited the car holding a child as a shield, but he was subdued and captured and the child was unharmed. There was a less significant use of force during his capture. The pursuit of the vehicle continued for a short period of time, but the vehicle evaded the chasing deputies in traffic. Since the driver was not captured it was unknown if he had been shot.

> **I.A.B. Note:** Approximately four weeks after this incident, the driver was captured and it was learned he sustained a single gun shot to the left leg.

Sergeant Larry Del Mese, of Major Crimes Bureau spoke to investigators and provided an overview of the incident. Sergeant Del Mese said he was not a witness to any part of the incident, but was the supervisor in charge of the personnel who were involved.

Sergeant Del Mese said personnel from Major Crimes Bureau were asked to assist Homicide Bureau by conducting a surveillance of an individual named George Berry, who was wanted for a murder which occurred in the city of El Monte several days earlier. He said Detectives Chris Brackpool and Margarita Barron, of Homicide Bureau, were the investigating detectives.

Sergeant Del Mese said the information he was given was that the murder occurred when two males attempted to rob a 99¢ Only Store, located in the city of El Monte. During the course of the attempted robbery, they shot and killed the store manager. The subsequent investigation identified the two suspects. Additionally two houses were identified which were related to one of the suspects (Suspect George Berry). Sergeant Del Mese said Major Crimes Bureau's assignment was to conduct a surveillance of the two houses and arrest George Berry for murder, if he was located. He said Detective Brackpool, of Homicide Bureau, had search warrants for both houses, but was not going to execute the search warrants until Suspect Berry was in custody.

Sergeant Del Mese said one house was located at [redacted] and the second at [redacted] He said both of these houses are within a quarter of a mile of the location where the shooting occurred. Sergeant Del Mese said on the day of the shooting, surveillance was established on the Wilson Drive house at about 6:00 AM. He said at about 12:00 noon, other detectives from Major Crimes Bureau arrived in the area and a surveillance was established on the Cameron Avenue House. Sergeant Del Mese said Deputy Lyons (who was the deputy involved in the shooting) was part of the second group of personnel.

Sergeant Del Mese said at about 3:30 PM, a green Toyota Camry was seen leaving the Wilson Drive house. Suspect George Berry was identified as the front passenger. The driver was unknown. He said as the vehicle left the location, several deputies in "plain" vehicles began following it. He said the plan was to follow the Camry away from the area, then effect a vehicle stop and arrest Suspect George Berry. He said two deputies from Major Crimes Bureau (Deputies [redacted] and Kathy Gallagher) were using a marked Sheriff's radio car and were wearing Sheriff's uniforms. He said they were parked on Glenview Road, which is a residential street off of Merced Avenue. He said they had the assignment of effecting the vehicle stop.

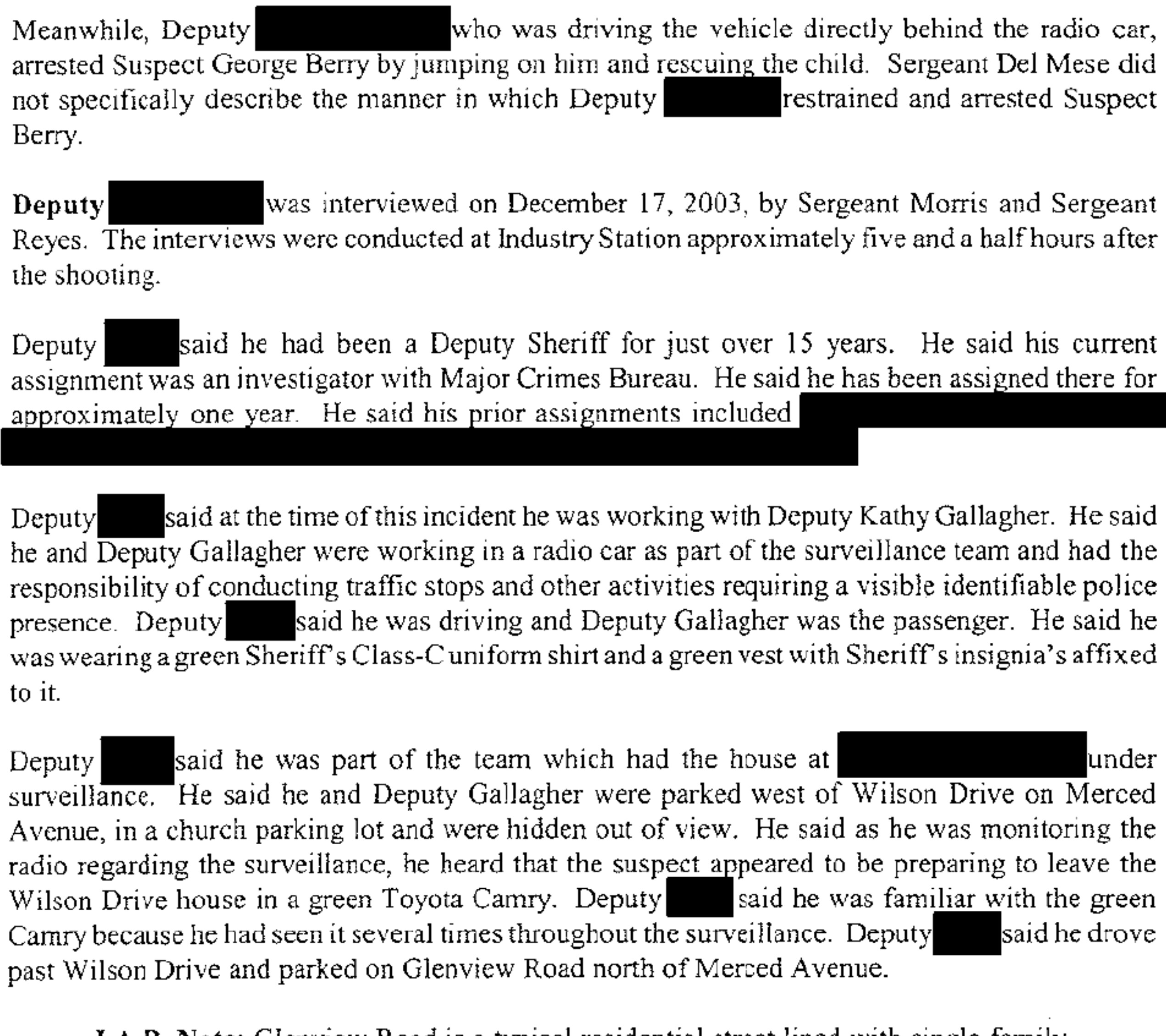
Sergeant Del Mese said as the Camry proceeded east on Merced Avenue, it unexpectedly turned north on Glenview Road. Since the suspect vehicle was now traveling toward the parked radio car, Deputy [redacted] who was the driver of the radio car, pulled away from the curb and into the street. The individual driving the suspect vehicle apparently saw the radio and stopped in the middle of the street. During this same time, Deputy Lyons, who was in plain cloths and driving an unmarked white Chevrolet pick-up, had followed behind the Camry onto Glenview Road because he was the primary person on the surveillance at that point and was following the suspect vehicle.

Once the suspect vehicle stopped in the middle of the street, the driver backed the car into a driveway and Deputy [redacted] pulled the radio car closer to the suspect vehicle. By this time Deputy Lyons had arrived and exited his vehicle.

As Deputy Lyons exited his truck, the suspects pulled out of the driveway, striking the radio car and causing moderate damage to the suspect vehicle. The driver then turned toward Deputy Lyons and tried to escape southbound on Glenview Road. The suspect was driving his vehicle toward Deputy Lyons, who fired one round from his duty Beretta at the driver as he drove toward him.

The Camry diverted its direction of travel around Deputy Lyons and continued south on Glenview Road, then turned west on Merced Avenue. At this time, the radio car and several unmarked vehicles from the surveillance team began to pursue the Camry.

After a short distance, the deputies saw a child in the back seat of the car. After several minutes the car slowed and Suspect George Berry exited the car, using the child as a shield. The Camry then sped away. The radio car continued pursuing the Camry, but subsequently lost sight of the vehicle in the vicinity of I-10 and West Covina Parkway.



Meanwhile, Deputy [redacted] who was driving the vehicle directly behind the radio car, arrested Suspect George Berry by jumping on him and rescuing the child. Sergeant Del Mese did not specifically describe the manner in which Deputy [redacted] restrained and arrested Suspect Berry.

Deputy [redacted] was interviewed on December 17, 2003, by Sergeant Morris and Sergeant Reyes. The interviews were conducted at Industry Station approximately five and a half hours after the shooting.

Deputy [redacted] said he had been a Deputy Sheriff for just over 15 years. He said his current assignment was an investigator with Major Crimes Bureau. He said he has been assigned there for approximately one year. He said his prior assignments included [redacted]

Deputy [redacted] said at the time of this incident he was working with Deputy Kathy Gallagher. He said he and Deputy Gallagher were working in a radio car as part of the surveillance team and had the responsibility of conducting traffic stops and other activities requiring a visible identifiable police presence. Deputy [redacted] said he was driving and Deputy Gallagher was the passenger. He said he was wearing a green Sheriff's Class-C uniform shirt and a green vest with Sheriff's insignia's affixed to it.

Deputy [redacted] said he was part of the team which had the house at [redacted] under surveillance. He said he and Deputy Gallagher were parked west of Wilson Drive on Merced Avenue, in a church parking lot and were hidden out of view. He said as he was monitoring the radio regarding the surveillance, he heard that the suspect appeared to be preparing to leave the Wilson Drive house in a green Toyota Camry. Deputy [redacted] said he was familiar with the green Camry because he had seen it several times throughout the surveillance. Deputy [redacted] said he drove past Wilson Drive and parked on Glenview Road north of Merced Avenue.

> **I.A.B. Note:** Glenview Road is a typical residential street lined with single-family homes. It is a north-south street and "T" intersects into Merced Avenue. Merced Avenue is a main east-west thoroughfare between Azusa Avenue and Glendora Avenue.

Deputy [redacted] said he heard radio traffic stating that the green Camry had left the Wilson Drive house and was proceeding east on Merced Avenue. He said they were advised that the primary suspect of their surveillance was the passenger of the vehicle. He said the suspect vehicle was being followed by two other deputies, who were driving separate unmarked vehicles. He said the plan was for the under cover deputies to follow the suspect vehicle away from the residential area, then he and Deputy Gallagher were to effect a vehicle stop of the car and arrested the suspect. He said it was his intention to pull behind the suspect vehicle as it continued east on Merced Avenue past Glenview Road.

Deputy [redacted] said as he was parked on Glenview Road he saw the Camry turn north onto Glenview Road and begin to drive toward him and Deputy Gallagher.

> **I.A.B. Note:** After the recorded interview, Deputy [redacted] commented that this action on the part of the driver of the suspect vehicle surprised him, because there appeared to be no reason why the driver would turn off the main thoroughfare and into another residential area. He said this was why he choose to park where he did in the first place.

Deputy [redacted] said he pulled away from the curb heading south, so he would be able to easily make a U-turn once the Camry passed him. He said as he pulled away from the curb, the driver of the Camry looked at him and got a panicked look on his face. He said the driver of the Camry brought the car to a sudden stop of his own volition and stared at him. Deputy [redacted] said he had not activated his emergency light or maneuvered his vehicle in any way which would have caused the driver of the Camry to stop. He said once the Camry stopped, he activated his forward solid red light and positioned his radio car diagonal in the street. He said during this same time he saw Deputy Lyons driving north toward him from behind the Camry. He said Deputy Lyons was driving a plain white Chevrolet pick-up truck and he knew he was dressed in civilian attire.

Deputy [redacted] said he pointed his Beretta pistol at the driver of the Camry and ordered him to put his hands in the air. He said during this same time he saw Deputy Lyons stop his truck behind the Camry. He said he saw the driver's door of Deputy Lyons truck open and saw Deputy Lyons start to exit the truck. Deputy [redacted] said his radio car was approximately two car lengths in front of the suspect vehicle and he estimated Deputy Lyons truck was stopped approximately four car lengths behind the suspect vehicle.

> **I.A.B. Note:** As this incident unfolded a vehicle pursuit ensued. Neither the radio car nor Deputy Lyons truck remained in their place. Their exact location at the time of the incident was not able to be determined.

Deputy [redacted] said he saw the driver of the Camry reach down with his right hand a begin fumbling with something. He said the driver put the car in reverse and started backing up. Deputy [redacted] said when the driver did this, he (Deputy [redacted] moved his radio car forward several feet. He said the driver of the Camry backed the vehicle into a driveway on the east side of Glenview Road, to a point were approximately half of the vehicle was in a driveway and half was extending into the street. He said the front of the vehicle was still facing in a north westerly direction. Deputy [redacted] said he moved his radio car forward, then brought to a stop approximately one-half of a car length from the driveway. He said he then began to exit his vehicle. He said he believed Deputy Gallagher was exiting the radio car as well. He said during this time he no longer saw Deputy Lyons because he was focused on the individuals in the Camry. Deputy [redacted] said the driver of the Camry put the car in forward gear and began exiting the driveway. He said when the driver of the Camry exited the driveway he turned the Camry in a southerly direction on Glenview Road. However, Deputy [redacted] said because of the placement of the Camry in a north westerly direction, the driver was required to

make an exaggerated left turn. Deputy [redacted] said as the driver did this, the Camry struck the front push bar of the radio car. Deputy [redacted] said the driver of the Camry careened the majority of the passenger side of the Camry across the radio car's push bar, catching the rear bumper of the Camry and yanking from the vehicle.

I.A.B. Note: The radio car was not damaged. The bumper of the Camry was recovered at the scene. Photos of this are located in the Photographs section of this case.

Deputy [redacted] said the driver of the Camry completed the turn and began heading south on Glenview Road. Deputy [redacted] said he saw Deputy Lyons standing just outside of the driver's door of his truck. Deputy [redacted] said Deputy Lyons' truck was parked on the portion of the street which was designated for north bound traffic. He said the truck was not parked in the middle of the street.

Deputy [redacted] said as the Camry continued south, he saw that it was headed directly toward Deputy Lyons. He said he saw that Deputy Lyons had his gun out and he heard a shot. However, he said he did not see Deputy Lyons fire his weapon. He said after hearing the shot, he saw Deputy Lyons fall back against the driver's door of the truck and the Camry continued past him.

Deputy [redacted] said as this happened he saw two additional surveillance vehicle turn onto Glenview Road from Merced Avenue. He identified the vehicles as a white van occupied by Deputy [redacted] and a maroon Nissan Pathfinder occupied by Deputy Carl McCraven #[redacted] He said after passing Deputy Lyons, the driver of the Camry negotiated between the van and the Pathfinder and continued south to Merced Avenue, then turned right heading west. Deputy [redacted] said he got back into his radio car with Deputy Gallagher, chased the Camry, and initiated a vehicle pursuit. He said the Camry continued west on Merced Avenue to Glendora Avenue, where it turned right (north). He said he was still chasing the Camry with his lights and siren activated. Deputy [redacted] said once the vehicle was north on Glendora Avenue, he saw the head of a child in the back seat. He said up until that time he had not seen a child in the car and had no knowledge there was a third occupant. He said traffic was heavy on Glendora Avenue and the pursuit was not traveling fast. He said he saw the front passenger reach into the rear seat and lift the child over the seat and onto his lap. He said the traffic eased up a bit and the Camry sped away toward Cameron Avenue, only to be slowed by the traffic congestion again. He said when the Camry reached Herring Avenue (one street before Cameron Avenue) it turned right (east). He said as the Camry continued east on Herring Avenue, the passenger's door continually opened and closed. He said the passenger, whom he knew to be the murder suspect, continually looked back at him and pointed at the child on his lap. Deputy [redacted] said he responded by pointing to the suspect to pull over. Deputy [redacted] said the Camry came to a stop at Holly Place, which was three streets after it made the right turn off Glendora Avenue. He said once the Camry stopped, the passenger opened the door and rolled out of the vehicle to a seated position on the street facing the radio car. He said the suspect had the child on his lap with his arms around her torso in a "bear hug" type of hold. He said the little girl was also facing the radio car. Deputy [redacted] said it was his belief that the suspect was using the little girl as a shield. He said the Camry sped away. He said Deputy Gallagher started to exit the car, but he grabbed her and pulled

her back into the radio car. He said he saw Deputy [redacted] arrive behind him driving the white van as well as other deputies in plain cars. He said he knew the other deputies would deal with the suspect holding the child and he wanted to continue chasing the Camry. He said once Deputy Gallagher was back in the car he continued chasing the Camry. He said he did not see the apprehension of Suspect George Berry or any force which was used against him.

Deputy [redacted] said he continued chasing the Camry for several blocks. He said he ultimately lost sight of the Camry near the West Covina Mall, around West Covina Parkway.

Deputy [redacted] said at the commencement of the surveillance operation on the day of this incident, he personally telephoned West Covina Police dispatch and notified them that Sheriff's personnel were conducting a surveillance in the city of West Covina. He said when the pursuit started they broadcast it over Industry Station's radio channel because Industry Station was th closest Sheriff's patrol station.

Deputy Kathy Gallagher was interviewed on December 17, 2003, by Sergeant Morris and Sergeant Reyes. The interviews were conducted at Industry Station approximately six and a half hours after the shooting.

Deputy Gallagher said she has been a Deputy Sheriff for 17 years. She said her current assignment was an investigator with the Surveillance Apprehension Team attached to Major Crimes Bureau. She said she has been so assigned for about four years. She said her prior assignments included [redacted]

Deputy Gallagher said at the time of this incident she was wearing a green Sheriff's raid jacket, black pants, and a full nylon Sam Brown gun belt.

Deputy Gallagher provided substantially the same information about the surveillance and her role in it, as did partner, Deputy [redacted] Deputy Gallagher specifically said she was told that if one of the individuals who was a target of the surveillance (George Berry) was seen, they were to stop and arrest him for murder. She said when the Camry initially left the Wilson Drive house, they were notified over the radio that George Berry was the passenger in the car.

Deputy Gallagher said she and Deputy [redacted] were parked on Glenview Road waiting for the green Camry to pass that street, so they could pull in behind it, effect a vehicle stop, and arrest Suspect George Berry. She said she saw the Camry pull onto Glenview Road and drive toward them. She said she and Deputy [redacted] were both surprised by the turn the Camry made onto Glenview Road. She said Deputy [redacted] suggested that they attempt to effect the vehicle stop before the Camry got deep into the residential neighborhood. She said Deputy [redacted] pulled away from the curb toward the approaching Camry, which stopped. She said Deputy [redacted] activated the emergency lights and pulled diagonally across the street. She estimated there was about 15 feet between their radio car and the Camry. She said the Camry only remained stopped for about two seconds. She said she was looking directly at the driver and saw him look backwards, them put the Camry in reverse and start to back

up. She said when this happened Deputy [redacted] pulled the radio car forward. She said the Camry backed into a driveway as Deputy Lyons approached from the south in his white pick-up truck. She said the driver of the Camry completed a "three point turn" in the driveway. She said after backing into the driveway, the suspect pulled forward and turned to the left. She said as he did this he side swiped the passenger's side of the Camry along the push bar of the radio car. She said the rear bumper of the Camry caught on the push bar and was ripped from the vehicle. She said she saw the Camry heading toward Deputy Lyons, who was out of the truck. She said she saw the Camry come withing six or seven feet of Deputy Lyons. She said she saw Deputy Lyons fire one round toward the driver of the Camry. She said the Camry continued south on Glenview Road maneuvering through several other Sheriff's Department vehicles which had arrived on the street by that time.

Deputy Gallagher said she and Deputy [redacted] pursued the Camry. She said she broadcast the pursuit while Deputy [redacted] drove. She said as they chased the Camry west on Merced Avenue, the vehicle slowed to about 40 miles per hour. She said the Camry turned right (north) on Glendora Avenue and began weaving through traffic. She said the Camry turned right (east) onto a side street and continued. She said there were several other deputies from Major Crimes Bureau following them. She said during this time she saw a child in the car, which she had not previously seen. She said she later saw the child in the front seat of the car, but did not see how the child got there. She said she saw the passenger's door of the Camry open and she assumed the passenger was going to run from the car. She said when the pursuit got to the residential intersection of Herring Avenue and Holly Place, the passenger's door opened completely and the passenger exited the car holding the child. She said the suspect was moving across the street holding the child in a bear hug, apparently as a shield, but then sat on the street still holding the child.

Deputy Gallagher said she saw Deputy [redacted] exit his van and jump on top of the suspect. She said she could not specifically describe what she saw Deputy [redacted] do, except to describe it as him "pouncing" on the suspect. She said at that time Deputy [redacted] grabbed her by the back of her jacket, pulled her back into the car, and they continued chasing the Camry. She said they chased the Camry for a short period of time, but lost it.

Deputy [redacted] was interviewed on December 17, 2003, by Sergeant Morris and Sergeant Reyes. The interviews conducted a Industry Station approximately seven hours after the shooting.

The Deputy [redacted] said he has been a Deputy Sheriff for 16 years. He said her current assignment was an investigator with Major Crimes Bureau.

Deputy [redacted] provided background of the operation which was consistent with the information provided by the other personnel who were interviewed. He said he was driving a white unmarked van. He said he was the person who positively identified the passenger of the Camry as Suspect George Berry. Deputy [redacted] said he was initially assigned a position at the Cameron Avenue house, but was directed to drive by the Wilson Drive house and attempt to identify a male who was believed to be Suspect Berry. He said he drove past the Wilson Drive house and positively identified George Berry as being the passenger of the Camry as it left the house. He said he was directed to

do this because he had personally seen Suspect George Berry on previous instances during the operation.

Deputy [redacted] said after identifying Suspect George Berry as the passenger of the Camry, he drove to Merced Avenue and parked east of Wilson Drive. He said it was his intention to wait until the Camry past him, then follow it and wait for the arrival of Deputies Gallagher and [redacted] in the radio car, to effect the traffic stop. He said as he waited he saw the Camry approaching him from the west, but saw it turn north onto a side street (Glenview Road). He said he turned around and intended to turn north on one of the parallel streets and follow the direction of the Camry. However, he said he heard the sound of squealing tires as he approached Glenview Road. He said based on the noise he heard, he turned onto northbound Glenview Road. He said when he did this he saw the Camry driving toward him. He said by this point he had not heard anything broadcast over the radio. He said he did not hear any gun shots and did not learn until the incident was over that a shooting occurred. He said the Camry weaved past him with the radio car directly behind it and in pursuit of it. Deputy [redacted] said he turned around and followed the radio car. He said his van was equipped with emergency lights and a siren. Deputy [redacted] said his radio was set to a tactical frequency and he did not hear any radio traffic associated with a pursuit. Deputy [redacted] description of the path of the pursuit was consistent with the information provided by the other personnel involved. He said the speed of the pursuit ranged from "very slow - 30 mph" to 55 or 60 miles per hour. He said at some point another deputy, whose identity he did not recall, began broadcasting the pursuit on the tactical frequency he was monitoring. Deputy [redacted] said at one point the Camry turned onto a small side street. He said when the Camry did this, he saw the passenger's door open. He said during this entire time he could not see who was in the car. He said the Camry came to a stop sign in the residential area and the radio car was directly behind it.

> **I.A.B. Note:** Based on this investigation, that intersection was determined to be the intersection of Herring Avenue and Holly Place.

Deputy [redacted] said he pulled his van along the right side of the radio car, just a little ahead of it. He said he thought the passenger, who he earlier identified as Suspect George Berry, was going to jump out of the car and run, so he wanted to be as close as possible to the Camry in order to chase Berry on foot, if that happened.

Deputy [redacted] said he saw Suspect Berry exit the car pulling a little girl with him. He said George Berry had the little girl by the hand. He said Berry turned and faced the radio car. He said he then gripped the little girl around the waist with his left and had his right hand hidden from view. Deputy [redacted] said he believed Berry was probably armed because he had been armed in the past and was wanted for a murder with a handgun. He said he saw Berry crouch down, so he was at the same level as the little girl and he said he thought Berry was going to hold the child hostage or use her as a shield. Deputy [redacted] said his concern was for the safety of the little girl. He said Berry directed his attention to the radio car and he (Deputy [redacted] seized the opportunity to rescue the child. He said he quickly closed the short distance between him and Suspect Berry (three - five feet) and punched Berry twice in the face. He said Berry let go of the girl and he and Berry fell to the ground. He said he was on top of Berry. He said he grabbed Berry's hands and handcuffed him without any

further use of force. Deputy [redacted] said he searched Suspect Berry and placed him in the rear of his van. He said the Camry sped away and he motioned for the radio car to continue chasing the Camry, which it did.

Deputy Robert Lyons was interviewed on December 17, 2003, by Sergeant Morris and Sergeant Reyes. The interviews were conducted at Industry Station approximately seven and a half hours after the shooting. Deputy Lyons did not exercise his right to have a representative present.

The Deputy Lyons said he has been a Deputy Sheriff for 14 years. He said his current assignment was an investigator with Major Crimes Bureau, where he has been for about three years. He said he had prior assignments at [redacted]

Deputy Lyons provided background of the operation which was consistent with the information provided by the other personnel who were interviewed. He said he was driving a white unmarked Chevrolet Silverado, full-size, pick-up truck. He said he was wearing civilian clothing, but also was wearing a green ballistic vest with Sheriff's Department marking and had his badge clipped on the front of the vest.

Deputy Lyons said he was informed that a murder suspect, Suspect George Berry, was the passenger in a green Toyota Camry. He said he and the other detectives were directed to stop the Camry and arrest Suspect Berry. Deputy Lyons said he was parked in the parking lot of an elementary school near the corner of Merced Avenue and Butterfield Road, which is two streets east of the Wilson Drive location. He said he saw the Camry drive past him traveling east on Merced Avenue with two occupants, a driver and a passenger. He said he did not personally recognize either of the occupants as Suspect George Berry, but said he was relying on the information he had been given that Suspect Berry was the passenger. Deputy Lyons said he pulled onto Merced Avenue and began following the Camry from a far distance, which he did not describe further. He said he began broadcasting the progress of the Camry, when it turned north onto Glenview Road. He said at that time he did not know the radio car was parked on Glenview Road. He said he understood the plan to be that he and the other team members were to follow the Camry until the radio car got behind it and effected the traffic stop for the purpose of arresting Suspect Berry.

Deputy Lyons said he followed the Camry onto northbound Glenview Road. He said when he turned onto Glenview Road he saw the radio car about mid block, in the middle of the street, facing the Camry. He said the radio car was at a slight angle across the street and the Camry was facing straight ahead. He said he stopped his truck about 10 to 15 car lengths behind the Camry.

> **I.A.B. Note:** Deputy Lyons was questioned in depth about his estimate of 10-15 car lengths, or about 180-270 feet. He said that was his best recollection. The examination of the scene of the shooting suggested he stopped his truck no more than about 100 feet (or two house lengths) behind the Camry. Nevertheless, Deputy Lyons said his independent recollection was 10-15 car lengths.

Deputy Lyons said he could not see the distance between the radio car and the Camry, but said they were "close" to one another. He said Deputies Gallagher and [redacted] were seated in the radio car.

Deputy Lyons said he saw the driver and passenger of the Camry look out the rear window of the car at him, then he saw the white reverse lights come on and the Camry started backing up. He said at that time he was still seated in his truck and saw the Camry back into a driveway on the east side of the street, which was very close to the location of his stopped truck. He said he saw the radio car pull forward toward the Camry and he thought the Camry was going to stop. He said when the radio car pulled forward he saw the rotating emergency light activate. He said they were not activated prior to that time. Deputy Lyons said he never gave any verbal commands to the persons in the Camry and he never heard Deputies Gallagher or [redacted] give any either. He said he got out of his truck when he saw Deputies Gallagher and [redacted] get out of the radio car. Deputy Lyons said at that time, the Camry pulled forward, struck the radio car, and drove toward him. He said he backed up to get out of the path of the car and backed into the open driver's door of this truck. He said the Camry was still traveling directly at him, so he fired one round at the driver of the Camry as it came within a few feet of him because he thought he was going to be run over. He said he saw his round strike the Camry on the driver's side of the vehicle, near the front and rear doors. He said the Camry continued past him. He said he turned around and saw a white van behind him and saw the Camry pass the van, then the van rapidly backed up as well. He said he lost sight of the Camry because of the position of the van. He said he got back into his truck, turned around and started to follow the path of the Camry and the radio car, which had passed him. He said he drove onto Merced Avenue and then started driving west. He said after a short distance he realized there were other deputies chasing the Camry, so he stopped at the side of the road and advised his direct supervisor, Sergeant Richard Valdemar, over the radio that he had discharged his weapon. He said Sergeant Valdemar advised Sergeant Del Mese, because Sergeant Del Mese was the supervisor in charge of the Wilson Drive location. Deputy Lyons said Sergeant Del Mese advised him to return to the Glenview Road location, where the shooting occurred. He did that.

Deputy Lyons said he did not continue to the terminus of the pursuit and did not see Suspect George Berry taken into custody.

Sergeant Morris examined Deputy Lyons weapon and found to be loaded with 15 rounds. One in the chamber and 14 in the magazine. Deputy Lyons said he carries the weapon fully loaded with one in the chamber and 15 in the magazine. His weapon was examined by the Crime Lab and determined to be in proper working order. The Crime Lab report can be found on page 14 of the Homicide Reports (Exhibit-A).

Suspect George Berry invoked his Miranda Rights and did not give a statement.

Suspect Shawn Berry was identified as the driver of the Camry on the night of the incident based on interviews conducted by detectives from Homicide Bureau. He is the brother of Suspect George Berry. At the time of this shooting he evaded arrest. He was eventually arrested on January 15, 2004 (29 days after the incident). Suspect Shawn Berry invoked his Miranda Rights and did not give a statement.

On the night of this incident it was unknown if Suspect Shawn Berry had been shot by Deputy Lyons. However, on January 9, 2004, Homicide Bureau was notified of the recovery of the green Camry. There was a bullet hole in the rear portion of the driver's door and there was blood located inside the vehicle in a location that suggested the driver had been shot in the leg.

Through their investigation, Homicide Bureau Detectives also learned that Suspect Shawn Berry was arrested by a Baldwin Park police officer for Possession of a Controlled Substance (Codeine) approximately eight hours after this incident. The Baldwin Park Police report can be found beginning on page 33 of the Homicide Bureau report (Exhibit-A). At the time of his arrest by Baldwin Park police, he had a fresh gun shot wound to his left leg. He told the Baldwin Park Police that he had been shot in a "drive-by" shooting in the city of El Monte. Baldwin Park Police took Shawn Berry to Queen of the Valley Hospital and had his gun shot wound treated. They also notified El Monte Police, who responded to the hospital and took a report of the alleged and fictitious "drive-by shooting." A copy of the El Monte police report can be found beginning on page 40 of the Homicide Bureau report (Exhibit-A).

Due to the short time span between the shooting and Shawn Berry's arrest by Baldwin Park Police, no information regarding him being wanted for this incident had been entered into any law enforcement data bases. The Baldwin Park Police had no way to know he was wanted. Shawn Berry was ultimately released from custody before anyone was able to determine he was wanted relating to this incident.

Ultimately, Homicide Bureau detectives obtained an arrest warrant for Shawn Berry and entered it into the computer systems. On January 15, 2004, (29 days after the incident) Shawn Berry was arrested for the warrant by Fontana Police.

Witness [redacted] was the 10 year old girl who was in the back of the Camry. She was interviewed by Detective Barron, of Homicide Bureau and Sergeant Reyes, of Internal Affairs Bureau, on December 17, 2003.

It was determined that [redacted] is the [redacted] of Suspect Shawn Berry's [redacted] Ms. [redacted] was incarcerated at the time of this incident. [redacted] identified Suspect Shawn Berry as her [redacted] even though he is not [redacted] to her [redacted] said she lived at the Wilson Drive house with her [redacted] and several other individuals.

[redacted] said at about 2:40 PM, on the date of this incident, she went with her [redacted] (Shawn Berry) and her [redacted] (George Berry) to visit a friend named "Jerry," who lived in the city of South El Monte. She said they were all driving together in the green Camry. [redacted] said Shawn was driving, George was seated in the front passenger's seat and she was seated in the driver's side of the rear seat. [redacted] said the Camry belonged to her [redacted]

[redacted] said when they were driving to Jerry's house, the police tried to stop them. She said she knew it was the police because she recognized the marked radio car. She said when they saw the police car, Shawn and George initially put their hands up, but then Shawn backed the Camry up. She said

he intentionally ran into the police car, then drove away. She said she did not know why Shawn was not stopping for the police, who were following them with emergency lights and siren activated. She said neither Shawn nor George said anything during this time, but she said they were "panicking." She said as they drove, George reached into the rear of the car, took hold of her in order to show the police there was a little girl in the car. [redacted] said they drove to an area which she described as being "behind the Department of Motor Vehicles."

> **I.A.B. Note:** The West Covina Office of the California Department of Motor Vehicles is located at 800 S. Glendora Avenue, West Covina. It is just north of Herring Avenue, where Suspect George Berry exited the car holding [redacted]

[redacted] said when they were in that area, her [redacted] told her to get into the front seat because they were going to get out of the car. She said she climbed over the seat into the front seat. She said once she was there, George Berry exited the car and was holding her in front of him and using was her as a shield. She said the police handcuffed him and took her to safety.

[redacted] said she did not hear any gunshots during the incident. She could not describe how the deputy captured and handcuffed George Berry after she exited the Camry with him.

Witnesses were searched for by assisting detectives from Major Crimes Bureau, but none were located. The detectives located several residents who said they heard noise consistent with a traffic collision, but none said they saw the incident. Supplementary Reports by Detectives Patterson, Vera, and Gordon (Exhibit-B) detail their efforts.

ADDITIONAL:

As a side note from this shooting itself, Homicide Detectives identified the other suspects in the original El Monte robbery/murder at the 99¢ Only Store. They determined that both George Barry and Shawn Berry were involved, as well as a third suspect named [redacted] who was also subsequently arrested. As of the submission of this report (May 17, 2005) all three men remain in custody.

INJURIES:

No department personnel were injured as a result of this incident. Suspect George Berry was not injured as a result of being punched or taken to the ground by Deputy Alvarado. Suspect Shawn Berry sustained a through and through gun shot to his left leg. The specifics of the injury were not determined because of the odd manner in which they were treated. Shawn Berry invoked his Miranda Rights and did not provide an authorization for release of his medical records.

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CRIMINAL HISTORY:

Suspect George Berry [redacted]

Suspect Shawn Berry [redacted]

Both suspects criminal history can be found in the Miscellaneous Documents section of this case.

PROSECUTION:

Criminal charges ranging from robbery, murder, weapons violations, and special circumstances were filed against all three men in Pomona Superior Court (Case #[redacted]. A copy of the Criminal Complaint is located beginning on page 20 of the Homicide Bureau Report (Exhibit-A).

On May 13, 2005, the suspects were convicted on all charges, with the exception of the Assault Upon a Peace Officer 245(c) P.C. charge against Suspect Shawn Berry (the driver of the Camry) specifically relating to the shooting involving Deputy Lyons.